MINUTES
SELECT BOARD
HARWICH TOWN HALL
732 MAIN STREET, HARWICH MA
MONDAY, AUGUST 25, 2025
5:15 P.M. EXECUTIVE SESSION
6:00 P.M. - REGULAR MEETING

MEMBERS PARTICIPATING: Chair Donald Howell, Vice Chair Peter Piekarski, Clerk Mark Kelleher, Member Jeffrey Handler & Member Anita Doucette

ALSO PARTICIPATING: Acting Town Administrator Tony Schiavi

CALL TO ORDER

Mr. Kelleher moved that the Select Board enter into Executive Session to discuss the items as outlined below, 2nd by Mr. Piekarski. The vote was 5-0-0 with Mr. Howell, Mr. Handler, Mr. Piekarski, Mr. Kelleher & Ms. Doucette all voting aye by roll call

EXECUTIVE SESSION

A. Pursuant to MGL c.30A, §21 (a)(3) to discuss strategy with respect to collective bargaining for all town unions and non-union personnel and or contract negotiations with non-union personnel and the Chair has determined that open session would have a detrimental effect on the town's bargaining position
B. Pursuant to G.L. c. 30A, §21(a)(2) to conduct strategy sessions in preparation for negotiations with non-union personnel and to conduct contract negotiations with non-union personnel: previous Interim Acting Town Administrator
C. Pursuant to MGL c. 30A §21(a)(7) to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements, the Open Meeting Law, MGL c. 30A §§ 22(f), (g) to review, approve and or discuss the possible release of executive session meeting minutes dated August 4, 2025
D. Pursuant to MGL c. 30A, §21(a)(3) To discuss strategy with respect to litigation in the Port Restaurant v. Town of Harwich matters as the Chair has declared that an open session may have a detrimental effect on the litigating position of the Town

Mr. Howell said that there is nothing to report from executive session other than since the agenda was originally assembled, The Port has elected to take its option for a final appeal on penalties relating to a previous penalty.

PLEDGE OF ALLEGIANCE

Mr. Howell invited everyone to join in the Pledge of Allegiance.

STAFF COMMENTS/ANNOUNCEMENTS

Community Center Director Carolyn Carey was present and reviewed the upcoming programs for the month of September at the Community Center.

Mr. Handler read into a record a letter outlining his deep disappointment regarding the treatment of a guest at the August 18, 2025 Select Board meeting. A copy of the full letter will be provided in correspondence of the next Select Board meeting packet.

WEEKLY BRIEFING

Mr. Schiavi provided the two-week and three-week look ahead for the Phase 3 sewer work.

Last week was the first meeting in a while with the Chatham Intermunicipal Agency Advisory Board. One of the items on the agenda was the updated sewer regulations that the Water/Wastewater Commissioners approved last week. These regulations have been transmitted to Chatham and we hope for a quick turnaround. The Phase 3A portion of the sewer project was also introduced to Chatham as well.

Mr. Schiavi reported that the town received 6 responses to the Brooks Academy Museum request for proposals. The designer selection committee and Ms. Eldredge will start the process this week and the timeline is on track.

Mr. Kelleher asked for clarification on what DBE stands for in the Robert B. Our updates. Mr. Schiavi responded that he would report back.

PUBLIC COMMENTS/ANNOUNCEMENTS

Lucy Steer from 59 Snow Inn Road was present and asked for a meeting within Town Government to discuss traffic concerns on Snow Inn Road as well as larger traffic concerns between Bank Street and Neel Road. Mr. Howell asked Ms. Steer to leave her contact information and that this would likely be a discussion with Public Safety through Administration first.

CONSENT AGENDA

A. Approve the Select Board Meeting minutes from August 18, 2025

Mr. Kelleher moved to approve the Select Board Meeting minutes from August 18, 2025 as printed, 2nd by Ms. Doucette and approved 5-0-0.

PRESENTATIONS

A. Presentation on the Innovative Partnership between Town of Brewster and Harwich Conservation Trust supporting nitrogen reduction in the Herring River Watershed presented by Horsley Witten Group

Mr. Howell said that he had an interesting conversation with Michael Lach of Harwich Conservation Trust last week. Mr. Howell added that it was never pre-supposed that Harwich was going to pre-pipe every house and we also didn't pre-suppose that it would be engineering based on building. This is also a topic that is going on in town government with Brewster.

Executive Director of the Harwich Conservation Trust Michael Lach was present with Tom Evans, Chris Miller and Mark Nelson. The Town of Brewster had reached out to Harwich Conservation Trust to explore an innovative approach to reducing Brewster's required nitrogen load reduction within its portion of the Herring River watershed. It is the hope that tonight's presentation will inspire creative thinking about ways for Harwich to reduce its nitrogen load to coastal embayments and therefore reduce the cost to taxpayers for wastewater treatment infrastructure.

Mr. Nelson who is from Horsley Whitten Group has been working on the water resources issues in Brewster since 2011. He wanted to give Harwich a sense of how Brewster is looking at the Herring River watershed and the solutions that they have come up with. Tonight's discussion topics include Brewster's nitrogen removal requirements, their proposed plan and purchase of a restriction on Thacher's Bog fertilizer applications. Brewster has worked for many years with Harwich on the Pleasant Bay watershed permit, which will be renewed over the next 6 months. Mr. Nelson reviewed a nap of Brewster's Herring River watershed and said that Brewster must offset the nitrogen load from current development and any future buildout. The land acquisition since 2024 for conservation has reduced the towns responsibility by 50%. Brewsters total load to offset is 45kg/year. Harwich's requirement is 5400kg/year plus buildout. The nitrogen management plan was to purchase a fertilizer restriction on 16 acres of the Thacher's Bog complex in Harwich from the Harwich Conservation trust. The benefits of Thacher's Bog are eliminating 150kg/year of fertilizer nitrogen applications exceeds Brewster's requirements for the Herring River as well as water quality benefits to the Hering River. The entire Herring River resource is within Harwich. The cost of the nitrogen management plan is $241,000.

Mr. Kelleher asked for explanation of the $241,000 cost. Mr. Nelson responded that the goal is to buy the rights to 16 acres of the bog that would no longer have fertilizer applied to them. The language of the deed restriction is being drafted and will be finalized in the next few months. The price was established on a price that the state uses for funding the purchase of bogs when they are being bought for conservation or restoration purposes. It is $15,000 per acre of the actively managed bog. Mr. Kelleher asked if the $241,000 would be paid to Harwich Conservation Trust. Mr. Nelson responded that it would.

Mr. Handler wanted to hear if Mr. Lach had any additional comments. Mr. Lach responded that this will need to be approved at the next Harwich Conservation Trust board meeting. To give greater context in their work within Harwich, Harwich Conservation Trust seeks to continue to be a proactive partner with both land preservation in nitrogen sensitive embayments. Mr. Lach thinks that it would be helpful for the Town of Harwich to seek guidance from its Wastewater Planning Consultants on how it might approach reduction scenarios within the Herring River watershed, similar to how Brewster is planning its approach. Perhaps there would be a way for Harwich Conservation Trust and the Town of Harwich to partner in other areas where there have been town owned bog properties within the Herring River watershed, or others. We know that there are 2 other bogs in the area. One is north of Sand Pond and the other is the town owned land bank property at 379 Main Street. Right now, those properties are part of an eco-restoration design study that is being completed under a contract with Harwich Conservation Trust funded by a grant from the state. Harwich Conservation Trust looks forward to sharing the results of those studies with the town to see if there is any interest in continuing the eco-restoration process on those parcels.

Mr. Howell said that Dan Pelletier, who is our consultant, has been in discussions with Brewster as well. What was not discussed was the Main Street bog. Mr. Howell feels that it would behoove Mr. Lach to have an initial conversation with the Cape Cod Regional Tech School. What the school is planning on now is an environmental ecological situation. He thinks the next step for the board would be to bring in Mr. Pelletier and see how this all ties together.

Patrick Otton was present and commented that this is a fantastic idea. He indicated that the Thacher Bog is 50 acres and asked why only 16 acres is being purchased. Mr. Lach responded that the overall property is about 50 acres, which approximately 20 acres are bog and the remaining 30 is surrounding uplands. Brewster is interested in purchasing the fertilizer elimination restriction on the 16 acres. Mr. Otton again asked why not the other 30 acres. Mr. Nelson responded that the whole 20 acres is a discussion that has been talked about in Brewster, but that the need is to hit the 150kg number. With the 50-acre purchase, it would be about 9 homes that could have been built on the property. The potential nitrogen load for those homes has been taken off the table. Mr. Nelson added that we don't know exactly how much nitrogen credit will come from the restoration process, but it is being studied in several places. Mr. Lach spoke briefly about the Cold Brook Eco-Restoration project and that the town will have data from that soon.

Mr. Otton said that he knows there has been a lot of talk in Brewster about the 30 acres of land on Long Pond and using 10 of those acres for low-income housing. He asked if that has been factored into the estimates. Mr. Nelson responded that it has.

Mr. Howell pointed out that we need to all work together because while a lot of people view these ponds as discrete bodies of water, they are all tied together.

Mr. Howell said that he will work to have Mr. Pelletier come before the board to have a bigger discussion.

NEW BUSINESS

A. Discussion and approval of a Conservation Administrative Permit for ecological enhancement at the Fernandes Bog entrance (town-owned land) from the Harwich Garden Club

Susan Sajer was present on behalf of the Harwich Garden Club. They are seeking approval from the Select Board to enhance the Fernandes Bog Beach Entrance with native plant gardens. In addition to improving the beauty of the entrance, the native plantings will support local wildlife by providing food and habitat for birds, pollinators and other wildlife, help prevent soil erosion and improve soil structure, require less maintenance and less water once established than a traditional garden. They have worked with the Department of Public Works and the Conservation Commission who have approved the plans, and a permit has been issued. The funding for the planting would come from the garden club as well as several generous donors.

Mr. Schiavi said that this is a great project and that he sat in on a workshop with the Conservation Commission where they talked about native plantings. He drives by this location often and thinks that it would make the entrance look nicer and that the garden club does a nice job of maintaining the plantings around town. Administration has no issues with this request.

Mr. Piekarski said that this is an excellent idea and that he supports it. His question would be if Administration staff can work with the Department of Public Works to do a general clean up in that area. Ms. Sajer responded that there are small areas that are within the Conservation Commission jurisdiction that can be planted. There is not much to do on side besides removing some wooden posts. The other side is full of poison ivy and briars. Ms. Sajer said that she met with Brian Albee from the Department of Public works that that he feels what is being proposed would not be a problem.

Mr. Handler moved to approve a Conservation Administrative Permit for ecological enhancement at the Fernandes Bog entrance (town-owned land) from the Harwich Garden Club, 2nd by Mr. Kelleher and approved 5-0-0.

B. Discussion and approval of correspondence to Monomoy Regional School District regarding the Capital project submission timeline

Mr. Handler moved to approve the correspondence to Monomoy Regional School District regarding the Capital project submission timeline as presented in the packet, 2nd by Mr. Kelleher and approved 5-0-0.

C. Discussion and approval of correspondence to the Chatham Select Board regarding the proposed extension of sewer service to the Great Sand Lakes area

Mr. Schiavi said that he had initial conversations with Chatham relative to Great Sand Lakes at their advisory meeting. The Select Board needs to formally request the inclusion of Great Sand Lakes as part of the Intermunicipal Agreement. There is a clause in the agreement for a chance to review it every 5 years.

Mr. Handler asked if there are any other steps that would need to happen after this agreement has been accepted and Harwich is ready to send flow. Mr. Schiavi responded that once the system is piped and approved, then the flow can be sent. There has been discussion about the potential of Harwich having to take effluent as part of this project. Right now, the flow numbers are so far below that it is not likely to ever happen, but if it does, Mr. Schiavi told Chatham that the permitting would take some time and an early indication of a heads up to Harwich would be needed.

Mr. Kelleher moved to approve the correspondence to the Chatham Select Board regarding the proposed extension of sewer service to the Great Sand Lakes area, 2nd by Mr. Piekarski and approved 5-0-0.

D. Vote to approve the proclamation recognizing September as National Suicide Prevention Awareness Month in the Town of Harwich

Mr. Kelleher moved to approve the proclamation recognizing September as National Suicide Prevention Awareness Month in the Town of Harwich, 2nd by Mr. Handler and approved 5-0-0.

OLD BUSINESS

A. Discussion about the Access to Town Counsel policy

Mr. Howell said that Mr. Piekarski has brought this up numerous times. In addition to an orderly process, there is an impact on what the town pays to the law firm. We have to revisit this so that everyone knows what the policy is. Mr. Howell added that he had a long conversation with Attorney Amy Kwesell from KP Law on Friday. Any request from the town for legal counsel will go along with a copy to the Select Board and the Town Administrator so there is a contact point.

Mr. Piekarski said that he knew that this policy existed and that he doesn't have an issue with it, besides some language updates. His bigger concern has to do with access. Mr. Piekarski read section II of the policy. He said that all these points are fine except for that any such approval shall be reported to the entire board as soon as practical. Mr. Piekarski's highlight was that in the past year and half there have been questions that have gone to Town Counsel that he does not consider to be representative of all the board members. He said that if the board is going to reach out to counsel with a question or to seek advice, then it should come to the Select Board to formulate all of the questions so that they are submitted together so that we don't receive an opinion from counsel and then have to go back to counsel with follow up questions from other board members because the initial questions weren't covered thoroughly. Mr. Piekarski feels that we have a current policy and it not being adhered to. Mr. Howell responded that this came up in his conversations with Attorney Kwesell that there is supposed to be a gate before the access.

Mr. Schiavi said that one of the options that the board may want to consider is a legal services request form. Town Counsel would know that if they were going to be contacted, that they would have to see the form, signed and approved by one of the 3 ways as outlined in the policy. He feels that maintaining control of the legal services budget is important.

Mr. Howell asked the board if they would like to have Administration take a run at what a form would look like and bring it back before the board. Mr. Schiavi responded that a draft form would be put on a future agenda.

Mr. Handler said that as a past Select Board chair, there were many times that he would call legal about an issue that the Select Board asked him to check on, only to find out that 2 members had already called. Personally, he would never reach out to legal without going through the Chair or requesting that the Chair reach out. Mr. Howell responded that the board is elected, and he would be hard put to close off any Select Board member who is having a problem to gain access to counsel. He would advocate that the rest of the board should know that the request to counsel has happened or that it is going to happen. As a bond of trust between the Select Board members, they should all be kept in the loop. Mr. Handler added that none of the Select Board elected officials should be shut off from access to Town Counsel, but that a courtesy email to the Select Board or Administration would suffice in his mind, so the same questions are not being duplicated to Town Counsel.

Mr. Piekarski feels that it is more than a courtesy, it is a policy. If someone needs to reach out to counsel as a board member, they can, and then it should come back to the board to let them know.

Richard Waystack was present and knows that there are some departments that use Town Counsel. The Assessing Director needs to have access to counsel when it comes to tax situations where the town is being sued by a resident who is appealing an abatement. The process is that the Assessing Director will go through the Town Administrator saying that they need to reach out to Town Counsel. There will be times that the conversation will go back and forth. He wanted to clarify that once someone has permission to access counsel on a specific topic, that they don't need to do back and get re-approval every time for the same matter.

Mr. Howell said that Attorney Kwesell had made a comment to him on Friday that she gets requests from many different directions. This is not to restrict legal services when needed, but that it would be nice if there was some orderly process where the board is fully aware of what is going on. Mr. Waystack responded that he is seeking direction for staff and wants to make sure that access is still available when necessary.

Mr. Piekarski said that one of the driving forces for him to bring this forward was that in FY24 and FY25 we exceeded our legal budget line item. There is an existing policy that is not being adhered to. He would be fine if someone wants to bring forward a recommendation to update the policy.

Mr. Schiavi said that there has been some language worked into the legal RFP that will help cost control.

B. Discussion regarding Finance Director search process

Mr. Schiavi said that we did receive word back that Groux White is not able to do the recruitment for this. One possibility is to go back on the street and see if there is a firm that would be willing to do this for the town, knowing that this would take time. The other option would be that it is within our capability to do this search in house, which could be done sooner, and we could hopefully get some candidates for the Select Board to interview. The board will need to finalize the job description and the salary range that they would like to have.

Mr. Howell said that he would bring this back but that the board would need to be prepared to have some sort of salary structure. He added that he knows Ms. Eldredge was a fan of the Collins Center, and that he is not. He feels that handling it in house sounds like a good idea, but that the board needs to know what they will offer as a salary range.

Mr. Piekarski said that he would be more than comfortable with the town taking the lead on this to see if we can get candidates. The board will need to have a final discussion on the salary range and any modifications to the job description.

Mr. Piekarski moved to empower the Town Administrator to pursue the recruitment process and to come back to the Select Board with recommendations relative to salary range and any other pertinent considerations relating to the Finance Director search, 2nd by Mr. Handler and approved 5-0-0.

Mr. Kelleher said that it sounds like the board will need another meeting to give the Town Administrator guidance. He knows that the board will not be meeting again until September 8th and commented that he would not want to wait the 2 weeks. He asked for a way for the Town Administrator to put this out on the street right now. Mr. Howell responded that the only problem is there is further discussion about salary that needs to happen. Mr. Schiavi added that he is unsure if there are still questions with the final job description. Mr. Howell responded that the board would need to make a recommendation on the final process and what the final product would look like. Mr. Kelleher suggested that the board empower Mr. Howell as Chair to have the Town Administrator contact all board members by phone to get this process finalized.

Mr. Handler commented on the information that was provided in the packet and that it is dated 2015. He would like to see the information provided from the last time this went out when the search firm was used. Mr. Howell responded that the problem is that there were 2 candidates who did not take the job and that they had both made a comment relative to how the accounting part of the job is daunting because there is a management and projection part of the job and then the day-to-day activities of the department. They both commented that we were asking too much of one person. Mr. Handler responded that he did not hear those comments come from the applicants.

Mr. Handler said that the 2 contested points during negotiations were salary range and remote work. He asked Administration to find the last RFP that went out along with the job description and send that to the board so that they have something current to work off of for the next meeting.

Mr. Howell said that calling each board member would be considered serial deliberation and a violation of the open meeting law and that process would not be done.

Mr. Schiavi asked if the job description that went out during the last RFP was different than what the board has now. Mr. Handler responded that it was more of an offer and scope of responsibility. Mr. Schiavi said that he would pull the old information. Mr. Piekarski noted pages 65 and 66 in the packet are the documents that went out. Mr. Handler thought there were additional documents.

Mr. Howell said that if the Board were to pursue anything with Groux White, that we wouldn't be talking about moving forward for a couple of weeks. If it is going to be handled in house, the board can sit down and brainstorm about language and salary.

Mr. Handler noted that the board did get a little closer to nailing down a remote work concept. Mr. Howell said that he would be bringing back a potential remote work policy and as well as a proposed look at the job duties and salary range.

Mr. Howell announced that the board would not be meeting on September 2, 2025.

CONTRACTS

A. Discussion and vote to award a contract to COMSTAR, LLC., for Ambulance Billing and Collection Service in the amount of 2.5% of revenues

Mr. Schiavi reviewed the contract as provided in the packet.

Mr. Howell asked if there is an idea on the actual payout to the contractor. Mr. Schiavi responded that he will bring that information back to the board.

Mr. Kelleher moved to award a contract to COMSTAR, LLC., for Ambulance Billing and Collection Service in the amount of 2.5% of revenues, 2nd by Mr. Handler and approved 5-0-0.

TOWN ADMINISTRATOR'S REPORT

Mr. Schiavi reported that Stephen Gingras will be appointed as per diem van driver to the Council on Aging.

Mr. Schiavi talked to the board about the 14-day waiting period that they have after taking affirmative action. In today's environment, most candidates are applying for more than one job. He is requesting that on occasion, that the board waive that waiting period so that an individual can be onboarded. Mr. Howell responded that the waiver language is in the charter and that is not going to be changed tonight. The board can however waive the waiting period on a case-by-case basis. Mr. Schiavi responded that he would like to request that the 14-day waiting period be waived for this appointment.

Mr. Kelleher moved to waive the 14-day waiting period for Stephen Gingras, 2nd by Mr. Piekarski and approved 5-0-0.

Mr. Schiavi thanked Mr. Piekarski for bringing up the issue on Lothrop Avenue. The road has since been milled and will be paved tomorrow.

Mr. Schiavi said that he attended the ribbon cutting at the Route 124 park and ride for the solar panels, along with Mr. Kelleher and representatives from MassDOT. He took that opportunity to speak with MassDOT about the towns affordable housing project that will be going in across the street as well as the potential for the development of the Marceline property.

Mr. Schiavi attended the Capital Outlay Committee meeting last week and said that he looks forward to working with them.

Rick White of Groux White met with and interviewed about 95% of the department heads this week.

In regard to an earlier question raised by Mr. Kelleher, DBE stands for Disadvantaged Business Enterprise Company.

SELECT BOARD MEMBER REPORT

Mr. Piekarski the board should probably begin discussions related to the Town Administrator salary and specific job skills that they would look for that individual to possess. He is sure that Mr. White is waiting for that information. The board should also have the conversation of the construct of the screening committee sooner rather than later. Mr. Howell responded that this is something that Mr. White owes to the board because he has an idea of how he would like the committee to function. Mr. Piekarski said that in the end, the committee is ours and that the board decides how it should look and operate.

Ms. Doucette said that she did attend both the Board of Health and Council on Aging meetings last week to introduce herself as the liaison.

Mr. Kelleher said that Mr. White has contacted the 2 people that he gave him the names of in terms of community leaders. He also thanked Mr. Waystack for the suggestion to reach out to the state about the upcoming development.

Mr. Handler asked about the Pennrose letter of support. Mr. Howell said that it would be on the next agenda. Mr. Schiavi added that staff has an internal response deadline of tomorrow.

Mr. Handler said that at some point he would like to have 62 Route 28 back on an executive session agenda to see where is stands.

Mr. Handler reported that Paul Doane emailed him today and has rescinded his interest in being part of the Community Preservation Committee.

Mr. Handler said that the Affordable Housing Trust sent a letter through him to the Select Board asking to be on the next agenda.

Mr. Handler noted that he was at a meeting in Harwich last night with some residents and asked if we have any idea with the RFP for the Walther Road stairs may be sent out. Mr. Schiavi responded that the last update received was a statement of work. He will report back further to the board soon.

Mr. Howell said that the board has worked on a draft letter to go to the Davenport Companies. He has spoken with Attorney Kwesell and she has said that she cannot do anymore than she has done. The board is looking for clarification from Davenport if they are still involved with the transaction and if so, who is authorized to speak on their behalf going forward.

CORRESPONDENCE

ADJOURNMENT

Mr. Handler moved to adjourn the regular meeting of the Select Board at 7:45 p.m., 2nd by Mr. Kelleher and approved 5-0-0.

Respectfully submitted,

Jennifer Clarke
Executive Assistant